

REPORTAGE

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India's Sikhs: Waiting for Justice

Barbara Crossette

The Indian political system got two unexpected jolts in May. First the Congress Party, led by Sonia Gandhi—widow and daughter-in-law of two assassinated former prime ministers—was swept to power in national elections against all predictions. A few days later, Gandhi stunned India again by refusing the prime ministership and handing the reins of government to Manmohan Singh, a reluctant politician who lost the only parliamentary election he ever contested, in 1999, but a widely heralded economic reformer who had been finance minister in the early 1990s.

Singh, however, is not only a financial whiz with an Oxford education. He is also the first Sikh to become prime minister of India—and his fellow Sikhs have 20 years of grievances to settle with his party and the Indian government. Can they count on him?

The new prime minister will have plenty of other problems on his list. Congress was elected in large part because the poor in India, who vote with courage and enthusiasm, were not taken in by the previous Hindu nationalist government's portrayal of India as a glittering high-tech nation. By World Bank estimates, more than three-quarters of India's one billion-plus people were surviving on two dollars a day or less at the turn of this new century.

The Congress Party also garnered votes among urban intellectuals and others committed to the vision of a secular, tolerant India articulated by its first prime minister, Jawaharlal Nehru. That image appeared to be fading fast under the Hindu nationalist Bharatiya Janata Party, as textbooks were

rewritten with Hindu overtones and Muslims were slaughtered in the BJP-led state of Gujarat. Many Indians voted for a renewed commitment to minority rights.

Sikhs (as well as Muslims) will want more, however. They want justice and reparations for abuses that were encouraged, if not condoned, by politicians and that left thousands dead over two decades.

As few in India need reminding, Sonia Gandhi's mother-in-law, Prime Minister Indira Gandhi, was gunned down in 1984 by her Sikh bodyguards, an act of vengeance prompted by her ordering the Indian army to attack Sikhdom's holiest shrine, the Golden Temple in Amritsar, in June of that year. Indira Gandhi made the move to crush a Sikh militant barricaded there whom she had earlier encouraged as an instrument to shatter political unity in Punjab, the traditional Sikh homeland. It was a fatal decision.

In the days that followed her death on October 31, mobs encouraged by Gandhi's Congress Party roamed Sikh neighborhoods, butchering men and boys with savage brutality, setting fire to the still-living and the dead. Sikhs were hauled from vehicles and killed on the roads; they were hacked to death on trains. About 3,000 Sikhs (the number is still in dispute) were murdered in nothing less than a pogrom, most of them in Delhi. In many neighborhoods, the police were nowhere to be seen. Only when the army stepped in did the killing and destruction of property stop.

"Yesterday we mourned for Indira," the *Indian Express* said in an editorial on

November 2, 1984. “Today we mourn for India.”

This November will mark 20 years since those days of terror and death. Several reports by Indian human rights groups on the killings and more than half a dozen official government commissions have come, and mostly gone. Yet no Indian politician accused of complicity in fomenting the attacks has been tried. No one in authority responsible for the astonishing negligence in law enforcement has resigned. Indeed, the federal minister then in charge of home affairs, P. V. Narasimha Rao, went on to become prime minister seven years later (after the assassination of Rajiv Gandhi, Indira’s son and another victim of her disastrous statecraft, this time with respect to Sri Lanka). In 1992, it was Prime Minister Narasimha Rao who stood aside once again when a Hindu mob tore down a sixteenth-century mosque in the northern town of Ayodhya. That outburst, in turn, foreshadowed the slaughter of about 2,000 Muslims in 2002 in the state of Gujarat—ironically, the birthplace of Mahatma Gandhi.

In what other mature democracy, Indian human rights activists and newspaper editorialists ask, would such wholesale, high-casualty attacks on any minority group go unpunished, and for two decades? Why are Indian law enforcement officials and public figures never held accountable?

Through these years of violence, the United States has often remained strangely silent or muted, prepared to give Indian democracy and its irresponsible politicians a sympathetic pass. Only the United States Commission on International Religious Freedom has called attention to the deteriorating Indian record in the treatment of minorities. In early 2004, it listed India as a “country of concern” because of attacks in recent years on Muslims and Christians. Moreover, it held politicians allied with extremists responsible for attacks.

The Institute of Peace and Conflict Studies, an independent research organiza-

tion in New Delhi, concurs with the U.S. commission’s assessment of the political nature of attacks on minorities in its 2004 report, *Communal Riots in India: A Chronology (1947–2003)*. Although the minorities under siege may be identified by religion, the roots of violence are rarely sectarian, the institute said. “This chronology reveals that communal riots are not caused spontaneously and also that they are rarely caused by religious animosity,” the report concluded. “They arise due to conflicting political interests, which are often linked to economic interests.”

Those of us reporting from New Delhi in those bloodstained days of November 1984 were not infrequently told that the Sikhs had it coming. Known for their martial prowess and their skills in agriculture—their farms in Punjab produced India’s Green Revolution—many Sikhs, who number around 20 million, or about 2 percent of the national population, were prosperous landowners; a few had become rich business people. In the hooligan pick-up mobs that attacked Sikhs in Delhi, reporters noted, there were angry Dalits—untouchables, the most deprived of all Indians. Indira Gandhi’s death was the spark needed by Congress Party minions to enlist society’s underdogs in ridding the powerful of a successful and bothersome minority. Sikhs, many of whom were well off, if not wealthy, wanted more political and economic control of Punjab, the state where most Sikhs in India lived. Their differences with the central government were not based on sectarian issues.

Almost as many Sikhs died in a few days in India in 1984 than all the deaths and disappearances in Chile during the 17-year military rule of Gen. Augusto Pinochet between 1973 and 1990. According to Chile’s truth and reconciliation commission, which was set up after Pinochet’s fall to account as much as was possible for the dead and missing, there were 2,095 extralegal executions in those years, and 1,102 people disappeared

and were assumed to have been killed. Not only Chile, but also Argentina, Peru, Mexico, South Africa and Ethiopia, among other nations, have been addressing atrocities from decades past. India, in refusing to confront its bloody recent history, stands in glaring contrast to these nations.

In the case of the Sikhs, the killings did not stop after the 1984 carnage. For a decade afterward, as the central government pursued a “give no quarter” drive against unrest in Punjab, militant Sikhs—who had turned to separatism and terrorism against both Hindus and more moderate Sikhs—were hunted down and killed by the hundreds, along with countless innocent people. Their bodies were often disposed of in hasty, illegal cremations or thrown into rivers and canals; others were hastily buried without notifying families.

In 1996, the Supreme Court of India upheld a finding by the Central Bureau of Investigation (India’s FBI) that 2,097 bodies had been burned without

proper notification or documentation, usually on police orders, in three crematoria in the Amritsar area alone. There are other crematoria in the state also under suspicion. It is a common allegation in India, supported by substantial evidence, that police in many places have felt free to shoot people with little or no provocation and then say that the victims died in an exchange of fire they call an “encounter.” Many of these are “fake encounters” designed to mask dubious, if not criminal, police action. Bodies are then often quickly disposed of.

Illegal cremations of Sikhs in the 1980s and 1990s are the subject of an exhaustive report, *Reduced to Ashes: The Insurgency and Human Rights in Punjab*, published in 2003 by the South Asia Forum for Human Rights in Kathmandu. The report’s leading author,

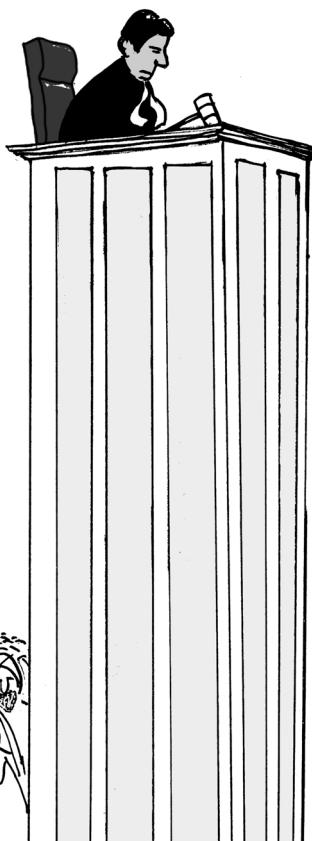
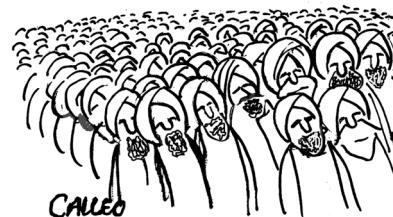
Ram Narayan Kumar, an Indian from a religious Hindu family who lives in Austria with his Austrian wife, says that the book could not have been published in India.

But India is a complicated place, and in its democratic institutions, media, and research organizations people struggle hard to end political impunity and sever the links between politicians and the local or state police who do their bidding. Police records and other public documents like death certificates are often made available to families or human

rights groups such as those that have documented the tragedy of the Sikhs. Magistrates are frequently accessible. Above all, the courts have repeatedly stepped in when political leaders have failed to deal with abuses.

A Conversation with Justice Verma

Jagdish Sharan Verma, a justice on India’s Supreme Court from 1989 to 1998 and chief justice in 1997–98, has been a leading judicial activist in human rights cases. Shortly after retiring from the Supreme Court, he was named chairman of the country’s National Human Rights Commission, from which he retired in 2003. Although he was not in Delhi in 1984 during the killings in Sikh neighborhoods, he became deeply involved later as head of the human



rights commission in investigating and trying to bring closure in the cases of illegal cremations in Punjab. He also personally investigated the murders of Muslims in Gujarat in 2002. From his experience on the bench and at the human rights commission, Justice Verma has developed a clear sense of how and where the Indian system goes badly awry despite the nation's democratic institutions, and what must be done to curb excesses.

Justice Verma, who now writes and speaks on human rights issues, sees a crucial need to buttress interaction between the Supreme Court and the human rights commission, to box in with tough reports and unambiguous judicial directives those who misuse power, including police power, for political gains at the expense of minority communities. Chief ministers of Indian states have considerable control and patronage in state police forces. There are also national forces, including the Central Reserve Police, that can be called in for emergencies; the army, which is exempt from the jurisdiction of the human rights commission, can be used too, though it does not like doing police work. But the bulk of law enforcement is in the hands of state police, and Justice Verma doubts their ability to function objectively in the current political climate.

"The police force is politicized," Verma said during a two-hour-long conversation in March in his home in Noida, an outlying suburb across the Jamuna River from Delhi. Giving the police professional autonomy is crucial, he added. "State police are very often seen as, and accused of, acting at the behest of politicians in power." His recent personal experience in Gujarat underlined these popular perceptions. Muslim neighborhoods were left unprotected and open to the marauding of murderous gangs. "My report on Gujarat mentioned that there were two senior politicians, ministers, sitting in the police control room and deciding where actions should be taken by the police or not,"

he said. In 1984, Sikhs were left vulnerable in Delhi in the same way.

Justice Verma, who was serving as chief justice of the Madhya Pradesh high court in 1984, is reluctant to pass judgment on events in Delhi that year. But he has no qualms about condemning what followed, as India failed for two decades to bring justice to the victims' families. "It was unfortunate that it took so much time and nothing happened, except for [the creation of] another commission, which by itself may not be much," he said of repeated efforts to reopen the issue of the 1984 killings, most recently under a sitting panel led by another former justice. "What is necessary is identification and prosecutions of at least a few [investigators]," Verma said. "That hasn't happened."

In both the Supreme Court and the human rights commission, Justice Verma established the precedent of putting the burden of proof on state administrations, not complainants. "The burden is on the person who has a special knowledge of the facts to prove whatever be the case," he said. "So here [we have] cremations—2,097 cremations—being conducted by state agencies. These facts are within their special knowledge. What was the situation for cremation? Why were the cremations done without notifying the next of kin? We can understand in the case of nonidentified bodies, but why not in the case of identified bodies? What steps were taken to identify?"

"If 2,097 persons were cremated by the state, let them prove all the facts to indicate that either their death was natural or that the death was not natural," he said. "The initial presumption is against the user of the force. The moment death is caused by use of force, the burden is on you to prove how and why the injury was caused which proved fatal."

"State liability would give rise to several consequences," he said, explaining that compensation, the identification of the violators, and prosecutions should follow, "then also reassurance of nonrepetition." In Punjab,

however, former officials and police directors have yet to meet the demands for information and documentation requested by a succession of official inquiries and by the national human rights commission, just as those in charge in Delhi in 1984 have also evaded accountability. The human rights commission has no power to force action. Officials stall and maneuver. No independent prosecutor has ever been named, although more than 5,000 Sikhs were killed between 1984 and 1995.

When he was the commission's chairman, Justice Verma tried to divide into categories the huge collection of cases with respect to the deaths in Punjab, by suggesting that 18 families of some 585 identified victims of illegal cremations accept compensation payments offered by the state for the first time to families of victims, which he considered a step forward. But families did not want a piecemeal settlement, particularly without a clear admission of guilt by the state. They also feared that the state government, having made this gesture, would say it had paid up and the cases were closed. Refusing the compensation was a decision made by an increasingly cohesive group of Sikh families, but Verma was disappointed. "It was not a wise act," he said. Now a larger group of families is planning to try again through class action lawsuits.

A Conversation with Kuldip Nayar

The policies of Indira Gandhi that poisoned relations with the Sikhs had their roots in the political history of the 1970s. After a tussle within the Congress Party of her late father and India's first prime minister, Jawaharlal Nehru, Indira emerged as leader of a powerful faction, which won the 1971 parliamentary elections, giving her the prime ministership. Her rise to power left her with a penchant for total control. She bolstered her position by using intelligence agencies for political ends, by sacking competitive politicians, including within her own party, and by dismissing state

governments on flimsy pretexts where opposition parties were building strong bases.

By the mid 1970s, Gandhi's authoritarian behavior had fueled a nationwide movement against her, led by Jayaprakash Narayan, whom many considered a philosophical successor to Mahatma Gandhi. Then, in 1975, a high court decided that her 1971 election victory had been marred by corruption, and declared the result invalid. Two weeks later, she imposed a national state of emergency to protect her political skin. Election laws were rewritten and civil liberties curtailed. Tens of thousands of people were jailed. The "emergency" lasted two years. When, in 1977, Gandhi decided to allow an election to take place, she and her party were unceremoniously dumped by India's angry and fearless electorate. It took her two years—and the faltering performance of the opposition coalition when in power—to climb back.

By 1980, when she again became prime minister, Punjabi Sikhs were restless for numerous reasons, and the Sikh party, the Akali Dal, which was very strong in Punjab state politics, had become an expression of those grievances. Punjab wanted the central government to fulfill old promises: to settle some territorial and riverine disputes with neighboring states and to give Punjab total control of Chandigarh, a capital city shared with Haryana state. Sikhs also argued that industrial policies formulated in Delhi prevented them from turning their rich agricultural state into a center of manufacturing as well. Among the more hotheaded, violent Sikhs the idea of creating a separate nation they called Khalistan burgeoned. The Akali Dal was given to factionalism, and Gandhi soon decided to add to the fractiousness by supporting several extremists, the best known of whom was a would-be messianic figure, Jarnail Singh Bhindranwale.

Kuldip Nayar, a Punjabi Hindu born in what is now Pakistan and one of contempo-

rary India's most distinguished political commentators and leading human rights defenders, was among a group of Indian intellectuals and politicians who had been actively trying in the early 1980s to steer Gandhi off her collision course with the Sikhs. I went to see him in New Delhi after meeting Justice Verma.

Very broadly, Nayar, a former Indian high commissioner in London—where he tasted the bitterness of Sikh exiles—sees the 1984 attacks in Delhi and other acts of violence that followed as evidence that the secular tolerance and faith in institutions fostered by Mahatma Gandhi are greatly diminished. A few years ago, as a member of the Rajya Sabha, India's upper house of Parliament, Nayar was slapped down by the chamber's presiding officer for trying to introduce a formal expression of sorrow over the attack on the Golden Temple; at the same time he was demanding an explanation from the government as to why there had still been no prosecutions for the 1984 killings of Sikhs.

Nayar's take on Indira Gandhi's thinking in the early 1980s is this: "She said, 'The Akali party has been always winning, so why shouldn't I put some kind of wedge in this—divide, separate.' So she picks up every religious fundamentalist kind of man who would create some kind of rift. But he [Bhindranwale] turns out to be a person who has his own ideas about his own greatness, and he started thinking, probably we should have a separate country."

Bhindranwale's radical following grew at the expense of moderate Sikh leaders such as Harcharan Singh Longowal. By 1984, Bhindranwale was out of control and holed up, armed, in the Golden Temple in Amritsar, where he held forth in the name of all Sikhs, though his was a minority view among Akalis.

"I went to Amritsar, and here was Longowal," Nayar said, "He was a very moderate man. I asked him: How can you share the same stage? He said, 'Because he [Bhin-

dranwale] has now excited the masses. If I am saying something else now, I wouldn't be heard.'" Back in Delhi, as a confrontation with Bhindranwale seemed to loom, Nayar said that he and Inder Kumar Gujral, also a Punjabi Hindu born in Pakistan (who would later become prime minister of India) and several other leading figures with a strong interest in Punjab set up an informal "Punjab group."

"We knew that there was talk of attacking the Golden Temple, and we said it would be hell if this were to happen," Nayar said. "So we went and met [Home Minister] Narasimha Rao, and Narasimha Rao said, 'All right, why don't you go to Chandigarh and persuade them, the Akali Party.' I said, 'What do you want us to do? He said, 'Tell them a settlement will take place.'" The group went to meet the moderate Akali leadership, carrying some political promises from the Gandhi government. It was all a sham. "Later I came to know that when we met [Narasimha Rao] Mrs. Gandhi had already ordered the movement [of troops]."

Nayar said that the Punjab group continued to argue that even if Bhindranwale was out of bounds, there must be some better way to deal with him. They suggested surrounding the Golden Temple, turning off the water supply, starving out the militants. Instead, on June 4, 1984, there were heavy artillery and tanks. When it was over, 493 militants had been killed and more than 1,500 arrested, according to an Indian government white paper issued the following month. Sikh officials, as well as some of the journalists who witnessed the assault, believe the death toll may have actually been in the thousands and that many of the dead were Sikh pilgrims. Two-hundred-year-old buildings were destroyed, including the walled site's most sacred shrine, the Akal Takht. Priceless Sikh books and documents were lost in the sacking and burning of the library.

The attack on the Golden Temple in June and the massacre of Sikhs that followed

Indira Gandhi's murder at the end of October were both manifestations of power politics, Congress style, according to Nayar. In Delhi, he said, "These politicians could exploit the kind of atmosphere that had been building against the Sikhs." The police, he added, "were part of the setup." Moral authority and tolerance in India had been crushed by Indira Gandhi's emergency, Nayar said. "Since those things had been erased, people didn't matter. So when Mrs. Gandhi was assassinated, the police were used in the same way. The institutions were not allowed to work. You say, 'Look here, the Sikhs will have to pay.' It was a frenzy, a frenzy abetted by a political party."

After 1984, the extrajudicial killing continued, Nayar confirmed. "In Punjab, when this terrorism was being crushed, a lot of people were just bumped off. As a human rights activist, I think it's something terrible. But there are people who will say, Punjab was safer."

Sikhs still have grievances in Punjab. They still believe that government economic policies hinder the state's industrial development. They have been promised time and again for half a century that the city of Chandigarh will be their state capital, but those promises are always broken and the city is still shared with Hindu-majority Haryana state. Above all is the lack of justice for the killings in 1984. "Today, even, you have not been able to win back the Sikhs," Nayar says. "The Sikh is unhappy because of 1984."

Will Justice Be Done?

Justice Verma, in his exurban home away from the cauldron of Delhi politics, thinks a lot about terrorism—and state terrorism. He lives under a death threat from the Liberation Tigers of Tamil Eelam, a Sri Lankan separatist guerrilla army, because he led the judicial inquiry that first concluded the Tigers had planned and carried out the assassination of Rajiv Gandhi in 1991, after years of covert and overt Indian interference

in Sri Lanka. Although Verma has devoted much of the past decade to trying to rectify at least some of the wrongs against Sikhs, many still blast him for not doing enough. At the same time, some militant Hindus excoriate him for caring too much about the rights of minorities, especially Muslims.

Since the attacks on the United States on September 11, he said, he has been pained to see democracies cut legal corners and increase government powers to deal with terrorism. He fought unsuccessfully against the imposition of a harsh new Indian Prevention of Terrorism Act in the wake of 9/11. More untrammeled power in the hands of the police is not what India needs.

"You have to fight terrorism," he said. "That is the biggest violation of human rights." But then it has to be under the constitution and the rule of law. When terrorism is countered by state terrorism, he said, law and order loses its way. "Basic norms of democracy have to be kept in mind, and therefore certain human rights are nonderogable," he said. "There has to be a difference between a terrorist and a law-enforcement agency meant to enforce and implement the rule of law. That is what, really, democracy is all about."

With a Sikh prime minister now at the political helm of India, what now for the Sikhs? Will justice finally be done? Will politicians still active in the Congress Party be brought to account on criminal charges and Sikh families compensated in some way for the losses they suffered and the pain they have borne for decades? Indian human rights activists are not hopeful.

After Manmohan Singh was named prime minister, I sought the opinion of Jaskaran Kaur, an American-born Sikh with a Harvard law degree who is leading a campaign to hold state and central governments in India accountable for the illegal cremations. A book based on her doctoral thesis on this subject is being published this year by a newly formed, U.S.-based, pan-South Asian human rights organization called

Ensaaf—which means “justice” in several South Asian languages. What Kaur hears coming from India, she said, is not shame or contrition but the lame excuse that all this happened years ago and why not let bygones be bygones.

Young, secular-minded, Western-educated Indians like Kaur—passionate about rectifying abuses in Punjab or Kashmir or Gujarat or the unhappy Indian northeast—have had enough of this political spinelessness and amnesia. India does not need any more commissions or inquiries. To stand tall among democracies, India needs to open

broad criminal cases and give investigators and judges the power to put under oath—and in jail—officials of any party who condone violence and the abuse of human rights. Furthermore, such punitive powers must be institutionalized so that the next time churches burn, mosques are demolished, or members of minority groups are slaughtered in the streets, politicians will know that these crimes will no longer go unpunished and that political careers and the cosetting of pliant police will be at an end. ●